

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36163

STATE OF IDAHO,	)	2009 Unpublished Opinion No. 662
	)	
Plaintiff-Respondent,	)	Filed: November 4, 2009
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
ERIK DARRELL ANDERSON,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

---

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael R. McLaughlin, District Judge.

Order revoking probation and sua sponte reducing unified sentence to four years with one year determinate for possession of a controlled substance, affirmed.

Molly J. Huskey, State Appellate Public Defender; Eric D. Fredericksen, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

---

Before LANSING, Chief Judge; GUTIERREZ, Judge;  
and GRATTON, Judge

---

PER CURIAM

Erik Darrell Anderson pled guilty to felony possession of a controlled substance. Idaho Code § 37-2732(c). The district court imposed a unified five-year sentence with a one-year determinate term, but after a period of retained jurisdiction, suspended the sentence and placed Anderson on supervised probation. Subsequently, Anderson admitted to violating several terms of his probation and the district court reinstated probation. Thereafter, Anderson again admitted to violating several terms of the probation, and the district court consequently revoked probation and sua sponte reduced Anderson's sentence to a unified term of four years with one year determinate. Anderson appeals, contending that the district court abused its discretion in revoking probation.

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation have been violated. I.C. §§ 19-2603, 20-222; *State v. Beckett*, 122 Idaho 324, 325, 834 P.2d 326, 327 (Ct. App. 1992); *State v. Adams*, 115 Idaho 1053, 1054, 772 P.2d 260, 261 (Ct. App. 1989); *State v. Hass*, 114 Idaho 554, 558, 758 P.2d 713, 717 (Ct. App. 1988). In determining whether to revoke probation a court must examine whether the probation is achieving the goal of rehabilitation and consistent with the protection of society. *State v. Upton*, 127 Idaho 274, 275, 899 P.2d 984, 985 (Ct. App. 1995); *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *Hass*, 114 Idaho at 558, 758 P.2d at 717. The court may, after a probation violation has been established, order that the suspended sentence be executed or, in the alternative, the court is authorized under Idaho Criminal Rule 35 to reduce the sentence. *Beckett*, 122 Idaho at 326, 834 P.2d at 328; *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989). A decision to revoke probation will be disturbed on appeal only upon a showing that the trial court abused its discretion. *Beckett*, 122 Idaho at 326, 834 P.2d at 328.

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion in revoking probation. Therefore, the order revoking probation and sua sponte reducing Anderson's previously suspended sentence is affirmed.